



REVIEW REPORT 080-2019

Saskatchewan Health Authority

January 14, 2020

Summary: The Applicant requested a review of the Saskatchewan Health Authority's (SHA) response to an access to information request for records related to health complaint files. The Commissioner reviewed whether the SHA performed a reasonable search and the information withheld was non-responsive to the request. The Commissioner found that the SHA's search efforts were adequate and that the information withheld was non-responsive. The Commissioner recommended that the SHA continue to withhold the information.

I BACKGROUND

[1] On February 6, 2019, the Applicant made a request for information to the Saskatchewan Health Authority (SHA) for the time period of August 6 to September 6, 2018 as follows:

Request the following information regarding public health complaint files at 409 and 411 Lakeview Ave, Hamlet of Lakeview Sk. Dealt with by Sk Health authority North Battleford, health inspector [name].

[2] On March 12, 2019, the SHA responded to the request and provided the responsive record to the Applicant partially withheld as non-responsive.

[3] On March 13, 2019, my office received a request for review from the Applicant for the search efforts of the SHA as well as whether the record is non-responsive.

- [4] On March 20, 2019, my office provided notification to both the Applicant and the SHA of my intent to undertake a review.

II RECORDS AT ISSUE

- [5] The records consist of one page of handwritten notes in which half of the page was withheld as the SHA indicated it was non-responsive to the Applicant's request.

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

- [1] The SHA is a "local authority" pursuant to subsection 2(f)(xiii) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). Therefore, I have jurisdiction to conduct this review.

2. Is there information not responsive to the Applicant's access to information request?

- [2] When a local authority receives an access to information request, it must determine what information is responsive to the access to information request.
- [3] Responsive means relevant. The term describes anything that is reasonably related to the request. It follows that any information or records that do not reasonably relate to an Applicant's request will be considered "not-responsive". The Applicant's access to information request itself sets out the boundaries of relevancy and circumscribes the records or information that will ultimately be identified as being responsive.
- [4] A local authority can sever information as non-responsive only if the Applicant has requested specific information, such as their own personal information. The local authority may treat portions of a record as non-responsive if they are clearly separate and distinct and not reasonably related to the access to information request.

[5] The purpose of LA FOIP is best served when a local authority adopts a liberal interpretation of a request. If a local authority has any doubts about its interpretation, it has a duty to assist the Applicant by clarifying or reformulating the request.

[6] In this case, the SHA indicated that information on half of the record is not responsive to the Applicant's request. In its submission, SHA indicated that it redacted information as non-responsive because it contained information related to other investigations and contained names and addresses/properties other than the address noted in the request as well as subject matter not related to the request.

[7] Upon review of the information, I agree that the information redacted is non-responsive and does not relate the properties requested by the Applicant.

3. Did the SHA conduct an adequate search?

[8] The focus of a search review is whether or not the public body conducted a reasonable search. A *reasonable search* is one in which an employee, experienced in the subject matter, expends a reasonable effort to locate records which are reasonably related to the request.

[9] The threshold that must be met is one of "reasonableness". In other words, it is not a standard of perfection, but rather what a fair and rational person would expect to be done or consider acceptable. LA FOIP does not require the public body to prove with absolute certainty that records do not exist.

[10] When a public body receives a notification letter from my office requesting details of its search efforts, the following can be included in the public body's submission (non-exhaustive):

- Outline the search strategy conducted:
 - For personal information requests – explain how the individual is involved with the public body (i.e. client, employee, former employee etc.) and why certain departments/divisions/branches were included in the search;

- For general requests – tie the subject matter of the request to the departments/divisions/branches included in the search. In other words, explain why certain areas were searched and not others;
- Identify the employee(s) involved in the search and explain how the employee(s) is “experienced in the subject matter”;
- Explain how the records management system is organized (both paper & electronic) in the departments/divisions/branches included in the search:
 - Describe how records are classified within the records management system. For example, are the records classified by:
 - alphabet
 - year
 - function
 - subject

Consider providing a copy of your organizations record schedule and screen shots of the electronic directory (folders & subfolders).

If the record has been destroyed, provide copies of record schedules and/or destruction certificates;

- Explain how you have considered records stored off-site;
- Which folders within the records management system were searched and explain how these folders link back to the subject matter requested?
 - For electronic folders – indicate what key terms were used to search if applicable;
- On what dates did each employee search?
- How long did the search take for each employee?
- What were the results of each employee’s search?

[11] The above list is meant to be a guide. Providing the above details is not a guarantee that my office will find the search conducted was reasonable. Each case will require different search strategies and details depending on the records requested.

[12] In the SHA's submission, it indicates that, the search consisted of received and sent email folders, the network drive titled *Sewage* as well as a search of the files in the health inspection software application.

[13] I am satisfied that the SHA has performed a reasonable search for responsive records.

IV FINDINGS

[14] I find that the information redacted is non-responsive and does not relate to investigations concerning the properties requested by the Applicant.

[15] I find that the SHA performed a reasonable search for responsive records.

V RECOMMENDATION

[16] I recommend that the SHA continue to withhold the redacted information.

Dated at Regina, in the Province of Saskatchewan, this 14th day of January, 2020.

Ronald J. Kruzeniski, Q.C.
Saskatchewan Information and Privacy
Commissioner